



OFFICE OF CIVIL RIGHTS

U.S. ENVIRONMENTAL PROTECTION AGENCY

Fiscal Year 2009

Annual Report to Congress
pursuant to the
Notification and Federal Employee
Antidiscrimination and Retaliation
Act of 2002

TABLE OF CONTENTS

I. Executive Summary	1
II. Background	2
III. Data	3
IV. Analysis of Trends, Causal Analysis and Practical Knowledge Gained Through Experience	6
V. Adjustment to Budget	7
VI. Actions Planned or Taken to Improve Complaint or Civil Rights Programs.....	8
APPENDIX 1 No Fear 2009 Fiscal Year Totals	10
APPENDIX 2 Prevention of Sexual Harassment Policy Statement	24
APPENDIX 3 EEO Policy Statement.....	25

I. EXECUTIVE SUMMARY

The U.S. Environmental Protection Agency (EPA or Agency) provides its Annual Report to Congress as required by Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 ("No FEAR Act"), Public Law 107-174. As required, this report includes information related to the number of cases in Federal court pending or resolved in fiscal year (FY) 2009 and, in connection with those cases, their disposition; reimbursement(s) to the Judgment Fund; the number of employees disciplined and the nature of the disciplinary action taken.

During FY 2009, there were 11 cases pending before Federal courts. Within these cases, there were 10 claims of violation of Title VII; 3 claims of violations of the Rehabilitation Act; and 4 claims of violation of the Age Discrimination in Employment Act. Two cases were settled. Of the 9 remaining cases not settled during the reporting period, one involved a finding of no discrimination for the Agency; 3 cases are on appeal; and 5 are in varying phases of the pre-trial process.

There were no disciplinary actions taken in connection with any federal case pending or resolved in FY 2009 brought under applicable provisions of federal anti-discrimination laws and/or Whistleblower Protection laws; or for any conduct that is inconsistent with these laws or for conduct that constitutes any prohibited personnel practice.

In 2009, the EPA significantly improved the average processing time for all complaints of discrimination. A decrease of 157 days (from an average of 393 days in FY 2008 to an average of 236 days in FY 2009) is a 40% reduction in average processing time. The EPA continues to aggressively pursue the effective use of (ADR) as a means for settlement of EEO complaints. ADR was offered 85 times in the informal phase of the complaint process. .

During FY 2009, EPA's Administrator, Lisa P. Jackson, signed a new Agency EEO policy. This new policy embodies the Agency's commitment to:

- ✓ ensure that all programs to recruit, hire, train, develop, promote, reward, and discipline employees are conducted in a fair and consistent manner on the basis of merit;
- ✓ resolve workplace conflicts in a prompt, impartial, confidential, nondiscriminatory, and constructive manner, and without fear of reprisal; and
- ✓ educate managers, supervisors, and employees of their rights and responsibilities under Federal law.

The Agency's Office of Civil Rights (OCR) has hired additional staff, increased technical training, and improved case management technologies for the Employment Complaints Resolution Staff (ECRS). These measures have enabled ECRS to achieve impressive results through improved processing times and enhanced quality of EEO complaint adjudications, as well as increased efficiency and improved quality of complaint intake, tracking, and case management.

II. BACKGROUND

On May 15, 2002, Congress enacted the "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," or, more commonly, the No FEAR Act. One purpose of the Act is to "require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws." Public Law 107-174, Summary. In support of this purpose, Congress found that "agencies cannot be run effectively if those agencies practice or tolerate discrimination." Public Law 107-174, Title I, General Provisions, section 101(1).

Section 203 of the No FEAR Act requires that each Federal agency submit an annual Report to Congress not later than 180 days after the end of each fiscal year. Agencies must report on the number of Federal court cases pending or resolved in each fiscal year and arising under each of the respective areas of law specified in the Act in which discrimination or retaliation was alleged. In connection with those cases, agencies must report the status or disposition of the cases; the amount of money required to be reimbursed to the judgment fund; and the number of employees disciplined. Agencies must also report on any policies implemented related to appropriate disciplinary actions against a Federal employee who discriminated against any individual, or committed a prohibited personnel practice; any employees disciplined under such a policy for conduct inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws, and an analysis of the data collected with respect to trends, causal analysis, in addition to other information.

The Act imposes additional duties upon Federal agency employers intended to reinvigorate their longstanding obligation to provide a work environment free of discrimination and retaliation. The additional obligations contained in the No FEAR Act can be broken down into five categories.

- A Federal agency must reimburse the Judgment Fund for payments made to employees, former employees, or applicants for Federal employment because of actual or alleged violations of Federal employment discrimination laws, Federal whistleblower protection laws, and retaliation claims arising from the assertion of rights under those laws.
- An agency must provide annual notice to its employees, former employees, and applicants for Federal employment concerning the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.
- At least every two years, an agency must provide training to its employees, including managers, regarding the rights and remedies available under the employment discrimination and whistleblower protection laws.

- An agency must post quarterly on its public Web site summary statistical data pertaining to EEO complaints filed with the agency.

The President delegated responsibility to the Office of Personnel Management (OPM) for issuance of regulations governing implementation of Title II of the No FEAR Act. OPM published final regulations on the reimbursement provisions of the Act on May 10, 2006; final regulations to carry-out the notification and training requirements of the Act were published on July 20, 2006; and the final regulations to implement the reporting and best practices provisions of the No FEAR Act on December 28, 2006. The EEOC published its final regulations to implement the posting requirements of Title III of the No FEAR Act on August 2, 2006. The EPA has prepared this report based on the provisions of the No FEAR Act, OPM and EEOC's final regulations.

III. DATA

a. Civil Cases

Section 203(a)(1) of the No FEAR Act requires that agencies include in their Annual Report "the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged." Section 724.302 of OPM's final regulations on reporting and best practices clarifies section 203 (1) of the No FEAR Act stating that agencies report on the "number of cases in Federal Court [district and appellate] pending or resolved...arising under each of the respective provisions of the Federal Antidiscrimination laws and Whistleblower Protection Laws applicable to them...in which an employee, former Federal employee, or applicant alleged a violation(s) of these laws, separating data by the provision(s) of law involved."

During FY 2009, there were a total of 11 cases pending before Federal courts. Among these cases, there were 10 claims of violation of Title VII; 3 claims of violations of the Rehabilitation Act; and 4 claims of violation of the Age Discrimination in Employment Act.

Two cases were settled. Of the 9 cases not settled during the reporting period, one involved a finding of no discrimination for the Agency; 3 are on appeal; and 5 are proceeding at different stages of the pretrial process.

b. Reimbursement to the Judgment Fund

OPM regulations state that the U.S. Department of the Treasury's Financial Management Service (FMS) will provide notice to a Federal agency's Chief Financial Officer within 15 business days after payment from the Judgment Fund. The agency is required to reimburse the Judgment Fund within 45 business days after receiving the notice from FMS or contact them to make arrangements in writing for reimbursement.

Of the 11 cases noted above, 3 cases involve payment to the Judgment Fund. Two cases involving Title VII claims were settled in this reporting period. One case included

payment of \$45,000, with \$29,000 specifically designated for attorney's fees. The other settlement included payment of \$100,000 with no specific amount designated for payment of attorney's fees. In the third case, the Agency reimbursed the Judgment Fund for a payment of \$100,000 in attorney's fees. This payment was the result of an order to pay by the presiding judge.

c. Disciplinary Actions (5 C.F.R. § 724.302 (a)(3) & (5))

There were no employees disciplined in FY 2009 in connection with any cases described in paragraph (a) above, or for any other conduct that is inconsistent with Federal Antidiscrimination Laws and Whistleblower Protection Laws or for conduct that constitutes prohibited personnel practices.

d. Final Year-End Data Posted Under Section 301(c)(1)(B)

The final year-end data posted pursuant to section 301(c)(1)(B) of the No FEAR Act is included in Appendix 2.

The final year-end data indicates that during FY 2009, there were 77 new administrative complaints of discrimination filed by 71 employees or applicants for employment. Within the total inventory of complaints for FY 2009 (171), OCR conducted 124 pre-complaint counselings; 73 investigations; and closed 53 cases. This includes 18 dismissals and 18 final agency decisions. There were no findings of discrimination.

FY 2009 complaint totals can be found in their entirety at Appendix 1 of this report.

e. Policy Description on Disciplinary Actions (5 C.F.R. § 724.302(a)(6))

Section 203(a)(6) of the No FEAR Act requires that agencies include in their Annual Report to Congress a detailed description of the policy implemented by the agency relating to disciplinary actions imposed against a Federal employee who discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2), or committed a prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2). Further, the Act requires that, with respect to each such law, the Federal agency report on the number of employees who were disciplined in accordance with such policy and the specific nature of the disciplinary action taken. OPM's final regulations on Reporting and Best Practices published on December 28, 2006, define discipline as "any one or a combination of the following actions: reprimand, suspension without pay, reduction in grade or pay or removal." OPM expects Federal agencies to report disciplinary action taken whether or not there is a formal finding of discrimination.

All EPA supervisors and management officials are responsible for taking appropriate corrective actions for which they have been delegated authority and for recommending to higher level officials disciplinary action considered appropriate in other cases. EPA's policies and procedures for taking disciplinary action are contained in EPA Order

3110.6B, *Adverse Actions*, EPA Order 3120.1B, *Conduct and Discipline*, EPA Order 3120.2, *Conduct and Discipline Senior Executive Service* and in the applicable collective bargaining agreements. Actions in response to findings of discrimination may range from informal corrective actions such as a written warning to more formal disciplinary actions such as a suspension without pay or removal.

During FY 2009, EPA's Administrator, Lisa P. Jackson, signed a new Agency EEO policy. This new policy contained several affirmations directed towards achieving the Agency's vision for effective EEO and a workplace free of discrimination, harassment and reprisal. These affirmations included the Administrator's commitment to:

- Ensure that all programs to recruit, hire, train, develop, promote, reward, and discipline employees are conducted in a fair and consistent manner on the basis of merit. Each employee will be regarded fairly and treated with dignity and respect.
- Maintain a work environment free from unlawful discrimination, reprisal and harassment. To do otherwise is simply not an option. It is totally unacceptable and will not be tolerated. Managers and supervisors will continually be held accountable for their responsibility to identify and correct discriminatory policies, practices and behaviors and for taking prompt and appropriate action to ensure that the work environment is free of unlawful discrimination, reprisal and/or harassment.
- Provide reasonable accommodations for qualified applicants and employees with disabilities.
- Seek to resolve workplace conflicts in a prompt, impartial, confidential, nondiscriminatory, and constructive manner, and without fear of reprisal. Every employee is encouraged to use the Alternative Dispute Resolution (ADR) process as a valuable tool in resolving workplace disputes and complaints of discrimination; and when appropriate, managers and supervisors shall fully participate in the ADR process.
- Educate managers, supervisors, and employees of their rights and responsibilities under Federal law. Equal opportunity is good business and it is the law.

This policy demonstrates the Agency's unwavering commitment to providing employees a discrimination free workplace. The 2009 EPA EEO Policy can be found in its entirety at Appendix 3.

Additionally, the Office of Civil Rights' standard operating plan (for the re-dress of allegations of discrimination) provides for a prompt, fair and impartial review, and adjudication of any allegation of discrimination; further demonstrating the Agency's commitment to equal employment opportunity principles and practices in all of our management decisions and personnel practices.

f. No FEAR Act Training Plans (5 C.F.R. § 724.302 (a)(9))

Section 202(c) of the No FEAR Act requires agencies to provide training to their employees on the rights and remedies under Federal antidiscrimination, retaliation, and whistleblower protection laws. Under 5 C.F.R. § 724.203, agencies are required to develop a written plan for training employees on the No FEAR Act.

During FY 2009, the Office of Civil Rights held its first Agency-wide training for EEO Counselors, Managers and Professionals. Developed by the Agency Employment Complaints Resolution Staff, in conjunction with staff from the Equal Employment Opportunity Commission, Agency EEO personnel received classroom training to include guidance on writing EEO Counselor's reports, the Alternative Dispute Resolution process, and conducting thorough EEO Counseling, just to name a few. This gathering of employees from all different Regions within the Agency allowed for productive discussions on potential changes in policy and complaint processing methodologies, development of new Agency forms and ideas for ways to optimize available resources and become a model EEO program.

Also during FY 2009, the Agency developed and scheduled multiple EEO classroom trainings for all Agency employees and was able to provide training to a total of 12,906 employees during the fiscal year. The Agency is updating its No FEAR on-line training course. Once updated and revised, all employees will complete this new training prior to December 30, 2010.

IV. ANALYSIS OF TRENDS, CAUSAL ANALYSIS AND PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE (5 C.F.R. § 724.302 (a)(7))

Section 203(a)(7) of the No FEAR Act requires that agencies undertake "an examination of trends, causal analysis, practical knowledge gained through experience, and any actions planned or taken to improve complaint or civil rights programs of the agency."

At the conclusion of FY 2009, the Agency saw a 5.5% increase in number of complaints; an increase of 4 from FY 2008. Overall, the percentage of complainants in the Agency is very low and under the government-wide number of .5%. Over the past five years, EPA's number of complainants by percentage of workforce has ranged from 0.3% to 0.44%. In FY 2009, the percentage of complainants was 0.417%. By the conclusion of FY 2009, the Agency saw an 8% increase in the number of administrative complaints filed and a 3% decrease in the number of complainants compared to FY 2008. The bases of alleged discrimination most often raised were: (1) Sex; (2) Race; and (3) Age. The Agency saw a 27% decrease in the number of complaints filed on the bases of retaliation between FY 2008 and FY 2009.

The 77 administrative complaints filed at EPA in 2009 contained 38 allegations of sex discrimination, 37 allegations of race discrimination and 37 allegations of age discrimination. The EEO complaint activity at EPA remained relatively consistent with

respect to the bases alleged; the data reflects certain shifts and trends but mostly does not show any significant increase in complaints filed on certain bases of discrimination, when considering the aggregate size of the workforce. EPA attributes the increase in complaints filed as well as the decrease in the allegations of retaliation to the continued education of employees on the rights and remedies applicable to them under the employment discrimination and whistleblower protection laws.

During FY 2009, EPA made significant progress in improving the timeliness of EEO investigations, completing investigations for complaints pending during FY 2009 with an average processing time of 125 days, down from 137 days in FY 2008. During FY 2009, there were only 8 complaints pending where the investigations exceeded the required timeframes, a 47% decrease from FY 2008. EPA's average processing time for all complaint closures decreased from 393 days in FY 2008 to 236 days in FY 2009, a 40% decrease in the total average processing time for complaints within the Agency.

The EPA has gained practical knowledge and experience since the first year of implementing the NoFEAR Act, and continues to recognize the importance of a centralized database of information relevant to the reporting requirements of the NoFEAR Act. It is important that there be an electronic interface between the Office of Civil Rights; Office Human Resources; Offices of the General Counsel and Chief Financial Officer. To assist in that aim, OCR has deployed a web based complaint tracking system. Still in its testing phase, the hope is to eventually allow varying levels of access to these organizations that play a vital role in meeting the reporting requirements of the NoFEAR Act. OCR will continue work to implement a fully functional information system to facilitate the process of gathering information and data from these important departments in its headquarters and regional offices.

Through experience gained over the last five years, EPA will continue to apply a wealth of practical knowledge towards ensuring merit systems compliance, prompt and impartial complaint-processing, and accountability. EPA is committed to promoting EEO and other merit systems principles and practices throughout the Agency's management decisions and personnel activities, and it is the goal of the OCR EEO and Diversity Programs to help EPA recruit, develop and retain a high-quality, diverse workforce, notable for its constructive communication, professionalism, respect, perspectives, ideas, experiences, and trust between individuals. OCR will continue partnering with the Agency's Office of Human Resources to emphasize recruitment of the best candidates from a variety of sources, selection and advancement of the best qualified employees based upon merit, delivery of EEO training for EPA managers and employees, promotion of equal employment opportunities to all individuals, and providing a prompt, fair, and impartial review of discrimination allegations while maintaining accountability.

V. ADJUSTMENTS TO BUDGET (5 C.F.R. § 724.302(a)(2)(ii))

Section 203(a)(8) of the No FEAR Act requires that agencies include in their Annual Report "any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201."

Of the 11 Federal cases noted above, 2 were settled during the reporting period, both involving Title VII claims. One of the cases involved a payment of \$45,000, of which \$20,000 was separately designated for the payment of attorney's fees. The other settled case involved the payment of \$100,000 with no specific amount for attorney's fees designated separately. All of these payments required reimbursement to the Judgment Fund.

In another case, the Agency reimbursed the Judgment Fund for a payment of \$100,000 in attorney's fees the Agency was ordered to pay by the presiding judge. The Agency, however, prevailed in that case when the presiding judge granted the Agency's motion for summary judgment.

VI. ACTIONS PLANNED OR TAKEN TO IMPROVE COMPLAINT OR CIVIL RIGHTS PROGRAMS (5 C.F.R. § 724.302 (a)(7)(iv))

Based on insights gained during the extensive trainings held for employees and staff during FY 2008 and 2009, OCR has implemented new strategies, performance metrics, procedures, technical training, controls, staff and technology for the Employment Complaints Resolution Staff (ECRS). Some of these strategies include the implementation of quarterly technical trainings and case law updates for staff, a more stringent review process for draft Reports of Investigations by higher graded staff to identify any investigative deficiencies and reduce the need for supplemental investigations and remands, as well as quarterly teleconferences with Regional EEO staff to identify and address concerns as they arise and assure continued uniformity in processing. These measures have already enabled ECRS to achieve impressive results through improved processing times and enhanced quality of EEO complaint adjudications, as well as increased efficiency and improved quality of complaint intake, tracking, and out-processing.

As EPA strives to create a diverse workforce, increasing the representation of minorities, women, and people with disabilities in the applicant pool from which the Agency selects qualified individuals is a major focus of both national and local recruitment efforts. These efforts are informed by annual assessments by EPA Headquarters and Regional offices of the composition of the Agency's workforce in occupational categories and grade groups. Workforce planning is a fundamental strategy underlying several approaches to improving EPA's human capital. The Agency is developing a Workforce planning and allocation model to help identify the competencies required to meet EPA's organizational goals.

ACCOMPLISHMENTS UPDATE

The EPA has pursued the requirements of this important legislation as indicated in the actions highlighted below.

Policy Development

- (1) **Updated EEO Policy** The 2009 Agency Policy exemplifies the Agency's unwavering commitment to providing a discrimination free work environment to all employees. We will continue to identify and eliminate any barriers to equal participation at all levels of the workforce and will evaluate managers and supervisors on efforts to ensure equality of employment opportunity.
- (2) **Evaluating Supervisory Performance** Elements of the SES performance standard 'flow down' to subordinate managers and supervisors. Further, this standard contemplates that each manager monitors the work environment to prevent discrimination and harassment, and will take timely action if harassment or other discriminatory treatment is observed, reported, or suspected.

Employee Awareness and Training

During FY 2009 EPA provided extensive classroom training to its senior staff, managers, supervisors, and employees on a variety of topics including, but not limited to the following:

- The No FEAR Act;
- EEO Law;
- EEO complaint process;
- Conflict resolution communication skills;
- Alternative Dispute Resolution (ADR) and effective mediation tools;
- Reasonable Accommodation for Employees with Disabilities.
- Topic specific training for the EEO intake staff/counselors and officers

Diversity, Special Emphasis and Special Observance Programs

EPA has continued to maintain strong programs in FY 2009 for the employment, advancement and retention of a diverse Federal workforce. These programs included initiatives to: achieve a model EEO program; strengthen partnerships with academic institutions and special emphasis community groups; conduct outreach and recruitment events to provide potential civil service recruits with information on locating and applying for EPA jobs; and educate and encourage the use of various recruitment flexibilities to tap into diverse talent pools. EPA also regularly conducted Special Observance programs at both Headquarters and Regional offices, designed to provide information and foster appreciation for individuals of different cultures and experiences.

APPENDIX 1

Equal Employment Opportunity Data Posted Pursuant to the No Fear Act

Equal Employment Opportunity Data Posted Pursuant to Title III of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174

Data as of September 31 - End of Fiscal Year 2009

Complaint Activity	Comparative Data Previous Fiscal Year Data					
	2004	2005	2006	2007	2008	2009
Number of Complaints Filed in Fiscal Year	71	69	76	64	73	79
Number of Complainants	69	65	60	59	72	70
Repeat Filers	2	8	11	7	1	8

Complaints by Basis	Comparative Data Previous Fiscal Year Data					
	2004	2005	2006	2007	2008	2009
Race	64	34	37	33	36	37
Color	21	12	6	8	15	3
Religion	0	2	0	2	2	1

Retaliation	72	59	57	36	40	29
Sex	49	39	30	22	28	38
National Origin	14	18	13	9	10	7
Equal Pay Act	0	2	0	1	0	0
Age	41	21	29	30	29	37
Disability	46	25	33	23	17	24
Non EEO Bases	0	0	0	0	0	0

Complaints by Issue	Comparative Data Previous Fiscal Year Data					
	2004	2005	2006	2007	2008	2009
Appointment/Hire	0	0	2	0	0	0
Assignment of Duties	20	8	4	8	15	8
Awards	1	6	6	2	5	2
Conversion to Full-Time	1	1	0	0	1	0
Disciplinary Action						
Demotion	1	2	1	0	1	0

Reprimand	11	5	3	3	2	3
Suspension	4	0	3	3	0	2
Removal	4	0	2	0	0	1
Other	0	0	0	0	0	0
Duty Hours	1	0	0	1	0	0
Evaluation Appraisal	9	8	16	14	17	9
Examination/Test	0	1	0	0	0	0
Harassment						
Non-Sexual	88	32	41	27	29	34
Sexual	3	1	1	0	1	2
Medical Examination	0	0	1	0	0	0
Pay (Including Overtime)	4	5	4	4	2	2
Promotion/Non-Selection	91	22	27	22	29	28
Reassignment						
Denied	0	4	0	4	1	0
Directed	0	2	2	2	4	2
Reasonable Accommodation	14	7	11	7	4	10
Reinstatement	0	0	0	2	0	0
Retirement	0	1	2	1	0	0
Termination	11	6	1	5	4	7
Terms/Conditions of Employment	43	15	18	17	11	7
Time and Attendance	6	8	11	11	12	8
Training	9	5	6	5	7	5
Other	0	0	0	0	0	0

Processing Time	Comparative Data Previous Fiscal Year
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	2004	2005	2006	2007	2008	2009
Complaints Pending During Fiscal Year						
Average Number of Days in Investigative Stage	163	143	120	112	137	125
Average Number of Days in Final Action Stage	569	458	388	400	393	182
Complaints Pending During Fiscal Year Where Hearing was Requested						
Average Number of Days in Investigation Stage	224	250	185	251	250	230
Average Number of Days in Final Action Stage	0	0	0	0	0	0
Complaints Pending During Fiscal Year Where Hearing was not Requested						
Average Number of Days in Investigation Stage	163	143	120	112	137	125

Average Number of Days in Final Action Stage	569	458	388	400	393	236
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Complaints Dismissed by Agency	Comparative Data Previous Fiscal Year Data					
	2004	2005	2006	2007	2008	2009
Total Complaints Dismissed by Agency	23	33	21	11	12	3
Average Days Pending Prior to Dismissal	300	143	149	169	78	87
Complaints Withdrawn by Complainants						
Total Complaints Withdrawn by Complainants	12	5	4	9	7	3

Total Final Actions Finding Discrimination	Comparative Data Previous Fiscal Year Data					
	2004	2005	2006	2007	2008	2009
Total Number Findings	0	0	0	2	1	0
Without Hearing	0	0	0	0	0	0
With Hearing	0	0	0	2 100%	1 100%	0

Findings of Discrimination Rendered by Basis	Comparative Data Previous Fiscal Year Data											
Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings	2004		2005		2006		2007		2008		2009	
	#	%	#	%	#	%	#	%	#	%	#	%

Total Number of Findings	0	0.0 0	0	0.0 0	0	0.00	2	1.00	1	1.00	0	0.00
Race	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retaliation	0	0.00	0	0.00	0	0.00	2	0.66	0	0.00	0	0.00
Sex	0	0.00	0	0.00	0	0.00	1	0.33	0	0.00	0	0.00
National Origin	0	0.00	0	0.00	0	0.00	0	0.00	1	1.00	0	0.00
Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Disability	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Non-EEO	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
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Findings of Discrimination Rendered by Basis	Comparative Data Previous Fiscal Year Data											
	2004		2005		2006		2007		2008		2009	
Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings	#	%	#	%	#	%	#	%	#	%	#	%
Findings After Hearing	0	0.00	0	0.00	0	0.00	2	1.00	1	1.00	0	0.00
Race	0	0.00	0	0.00	0	0.00	1	0.167	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retaliation	0	0.00	0	0.00	0	0.00	2	0.33	0	0.00	0	0.00
Sex (Includes Equal Pay Act)	0	0.00	0	0.00	0	0.00	2	0.33	0	0.00	0	0.00
National Origin	0	0.00	0	0.00	0	0.00	1	0.167	1	1.00	0	0.00

Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Disability	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-EEO	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Findings of Discrimination Rendered by Basis	Comparative Data Previous Fiscal Year Data											
Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings	2004		2005		2006		2007		2008		2009	
	#	%	#	%	#	%	#	%	#	%	#	%
Findings Without Hearing	0	0	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Race	0	0	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Color	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Religion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Retaliation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sex	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
National Origin	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Equal Pay Act	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Age	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Disability	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-EEO	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Findings of Discrimination Rendered by Issues	Comparative Data Previous Fiscal Year Data											
	2004		2005		2006		2007		2008		2009	
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number of Findings	0	0.00	0	0.00	0	0.00	2	1.00	1	1.00	0	0.00
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Disciplinary Action												
Demotion	0	0.00	0	0.00	0	0.00	1	0.167	0	0.00	0	0.00
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	1	0.50	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	1	0.167	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	0	0.00	0	0.00	1	0.167	0	0.00	0	0.00
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Harassment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	2	0.33	1	0.50	0	0.00
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reassignment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	1	0.167	0	0.25	0	0.25
Reasonable Accommodation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Findings of Discrimination Rendered by Issues	Comparative Data Previous Fiscal Year Data											
	2004		2005		2006		2007		2008		2009	
	#	%	#	%	#	%	#	%	#	%	#	%
Findings After Hearing	0	0.00	0	0.00	0	0.00	2	1.00	1	1.00	0	0.00
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Disciplinary Action												
Demotion	0	0.00	0	0.00	0	0.00	1	0.167	0	0.00	0	0.00
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	1	0.50	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	0	0.00	0	0.00	1	0.167	0	0.00	0	0.00
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Harassment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	2	0.33	1	0.50	0	0.00
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	2	0.50	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reassignment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	1	0.167	0	0.25	0	0.25
Reasonable Accommodation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Findings of Discrimination Rendered by Issues	Comparative Data Previous Fiscal Year Data											
	2004		2005		2006		2007		2008		2009	
	#	%	#	%	#	%	#	%	#	%	#	%
Findings Without Hearing	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Appointment/Hire	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Assignment of Duties	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Awards	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Conversion to Full-Time	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Disciplinary Action												
Demotion	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reprimand	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Suspension	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Removal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Duty Hours	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Evaluation Appraisal	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Examination/Test	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Harassment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Non-Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Sexual	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Medical Examination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Pay (Including Overtime)	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Promotion/Non-Selection	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reassignment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Denied	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Directed	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reasonable Accommodation	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Reinstatement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Retirement	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Termination	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Terms/Conditions of Employment	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Time and Attendance	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Training	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00
Other	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00	0	0.00

Pending Complaints Filed in Previous Years by Status	Comparative Data Previous Fiscal Year Data					
	2004	2005	2006	2007	2008	2009
Complaint Activity						
Total Complaints from previous Fiscal Years	167	129	91	81	71	54
Total Complainants	165	111	75	54	64	49
Number of Complaints Pending						

In Investigation	3	0	0	0	1	1
In Hearing	95	32	25	14	19	38
Final Action	4	15	9	7	4	15
Appeal with EEOC Office of Federal Operations	52	30	22	9	7	11

	Comparative Data Previous Fiscal Year Data					
	2004	2005	2006	2007	2008	2009
Complaint Investigations						
Pending Complaints Where Investigation Exceeds Required Time Frames	7	6	4	4	14	8

APPENDIX 2

MEMORANDUM- Policy Statement on Prohibition of Sexual Harassment

SUBJECT: Policy Statement on Prohibition of Sexual Harassment

TO: All Employees

Our Agency is committed to maintaining a work environment governed by responsible, efficient, and ethical management. To ensure such a commitment, we all need to know the policies and guidelines prohibiting sexual harassment. Any behaviors which weaken our ability to lead and manage our people and programs are unacceptable in our work place.

Sexual harassment is a prohibited personnel practice contrary to merit system principles outlined in the Civil Service Reform Act of 1978 and contrary to law outlined in Title VII of the Civil Rights Act of 1964. Specifically, sexual harassment is deliberate, or repeated, unsolicited verbal comments, gestures, or physical contacts of a sexual nature which are unwelcome. Such sexual advances, requests for sexual favors, and other harassment when: (1) they are made explicitly or implicitly a condition of an individual's employment; (2) submission to, or rejection of them, affects employment decisions impacting an individual, such as promotion or work assignments; or (3) they unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive work environment.

Any behavior which undermines the integrity of the employment relationship, impairs morale or interferes with employee productivity is a violation of ethical conduct in our Agency.

This memorandum constitutes the official policy regarding sexual harassment at the Environmental Protection Agency. We all share in the responsibility to promote a climate free from sexual harassment.

/s/ Carol M. Browner

Issued: June 1, 1993

APPENDIX 3

2009 Equal Employment Opportunity (EEO) Policy Statement

Memorandum

FROM: Administrator Lisa P. Jackson

TO: All EPA Employees

I believe that there is no higher calling than public service, and that there is no more important work in public service than the pursuit of civil equity. Our credibility and efficacy in the area of EEO is inextricably linked to our integrity and impartiality. In a sense, our capacity to protect human health and the natural environment depends on the protection of the workforce and the vindication of workforce rights, and we are duty bound to protect the rights of all employees, without bias or favoritism. To these ends, EPA must always strive to foster a work environment where the principles of EEO are willingly embraced and diversity is valued and understood. Maintaining a world class public service workforce requires strategic efforts to tap into the intellectual capital of our global economy. The 2000 Census shows major shifts in the demographic profile of the population we serve and the labor force from which we recruit. It is predicted that within the next 30 years, no single racial or ethnic group will comprise the majority of the nation's population. Clearly, changes associated with our increasingly pluralistic society bring concurrent opportunities and challenges.

Guiding Principle

EPA will be fully committed to the principles of EEO, equity, and diversity in the workplace and adhere to the policy of ensuring equal employment opportunity, prohibiting unlawful discrimination, retaliation and harassment in all its forms, and promoting diversity and inclusiveness.

Definition(s)

Equal Employment Opportunity (EEO) refers to the set of laws and policies that mandate all individuals' rights to equal opportunity in the workplace. The unequivocal protection of these fundamental civil rights in the workplace is the cornerstone of our American democracy and the foundation upon which diversity can thrive.

Diversity refers to the human qualities that are different from our own and those of groups to which we belong; but are manifested in other individuals and groups. Dimensions of diversity include but are not limited to: age, ethnicity, gender, physical abilities/qualities, race, sexual orientation, educational background, geographic location, socioeconomic status, marital status, military experience, religious beliefs, political beliefs and ideologies.

Diversity management, in contrast, is a proactive and appropriate response to the changing profile of our world. It is imperative that we recognize that in order to be relevant in the global

economy of the 21 st century, the Agency must recruit, develop, and retain a world class workforce that reflects the many dimensions of the society it serves. Based on the empirical correlation between workforce diversity and high performing organizations, a strong business case can be made for diversity.

Affirmation

I wish to affirm that no employee will be denied equal opportunity because of race, color, religion, sex, national origin, age, disability, status as a parent, sexual orientation, marital status, protected genetic status or prior EEO activity (reprisal). Individually, and collectively as an Agency, we must:

- ensure that all programs to recruit, hire, train, develop, promote, reward, and discipline employees are conducted in a fair and consistent manner on the basis of merit. Each employee will be regarded fairly and treated with dignity and respect.
- maintain a work environment free from unlawful discrimination, reprisal and harassment. To do otherwise is simply not an option. It is totally unacceptable and will not be tolerated. Managers and supervisors will continually be held accountable for their responsibility to identify and correct discriminatory policies, practices and behaviors and for taking prompt and appropriate action to ensure that the work environment is free of unlawful discrimination, reprisal and/or harassment.
- provide reasonable accommodations for qualified applicants and employees with disabilities.
- seek to resolve workplace conflicts in a prompt, impartial, confidential, nondiscriminatory, and constructive manner, and without fear of reprisal. Every employee is encouraged to use the Alternative Dispute Resolution (ADR) process as a valuable tool in resolving workplace disputes and complaints of discrimination; and when appropriate, managers and supervisors shall fully participate in the ADR process.
- educate managers, supervisors, and employees of their rights and responsibilities under Federal law. Equal opportunity is good business and it is the law. I expect all managers, supervisors, and employees to carry out their duties accordingly.

Conclusion

I expect EPA to continue to maintain policies that allow all employees to work in an environment that is free from discrimination, reprisal, and harassment.

It is my vision that EEO and diversity management are separate but symbiotic functions essential to the success of the EPA as a high performing organization. Together, these functions create synergy and transform our organization into one in which the whole is greater than the sum of singular entities. We are strengthened by our diversity, and empowered by our commitment to effective EEO.